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VISUAL SUPPLY COMPANY

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**
13

14 VISUAL SUPPLY COMPANY, a
Delaware corporation,

15 Plaintiff,

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17 v.

18 ADAM KHIMJI, an individual, and DOES
1-20, inclusive,

19 Defendants.
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Case No. 3:24-cv-09361-WHO

**DECLARATION OF ANDREW M. LEVAD
IN SUPPORT OF PLAINTIFF VISUAL
SUPPLY COMPANY'S OPPOSITION TO
DEFENDANT ADAM KHIMJI'S MOTION
FOR SANCTIONS**

Date: June 18, 2025

Time: 2:00 p.m.

Place: Courtroom C, 15th Floor

Judge: Hon. Sallie Kim

1 I, Andrew M. Levad, declare as follows:

2 1. I am over 18 years of age and make this declaration based upon personal
 3 knowledge of facts set forth below except as to those matters stated on information and belief. As
 4 to those matters, I am informed and believe them to be true. If called upon to testify, I could and
 5 would testify under oath to the matters set forth herein.

6 2. I am an attorney licensed to practice law under the laws of the State of California
 7 and am an associate with the law firm Sideman & Bancroft LLP, attorneys for Plaintiff Visual
 8 Supply Company (“VSCO”) in this matter. This declaration is filed in support of VSCO’s
 9 Opposition to Defendant Adam Khimji’s Motion for Sanctions, filed contemporaneously with this
 10 declaration.

11 3. In May 2023, VSCO discovered the first of a series of websites (the “Infringing
 12 Website”) and Reddit communities (the “Infringing Reddit Communities”), created and operated
 13 by the Defendants in this action, that targeted VSCO to take advantage of its female user base.

14 4. The Infringing Websites and Infringing Reddit Communities contained thousands
 15 of copyright-protected images of VSCO users, particularly women, that had been scraped from
 16 those users’ VSCO accounts, as well as those users’ VSCO account names and, in many instances,
 17 the geolocation data associated with those users’ photos.

18 5. The domain names for the Infringing Websites often incorporated the VSCO
 19 trademark (*e.g.*, <vsco.club>, <vsco.page>, <vsco.top>, <backupvs.co>, <downloadvsco.co>,
 20 <vscolookup.com>, <novsco.co>, <glizzy.cafe>, and <downloader.se>, and <socialgirls.live>,
 21 among others); and the subreddit names for the Infringing Reddit Communities often incorporated
 22 the VSCO trademark with a derogatory slur for the users (*e.g.*, r/VSCOsluts, r/VSCOsluts0,
 23 r/VSCOslutss, r/VSCOslutsz2, r/VSCOsluts, and r/VSCO_Nudes, among others).

24 6. The Infringing Websites and Infringing Reddit Communities are interactive and
 25 allow Defendants and other internet users to traffic these VSCO users’ copyright-protected images
 26 among one another, advertise and sell access to Defendants’ personal repositories of scraped
 27 images, and, in many instances, see exactly where these users’ photos were taken using an
 28 interactive “Map” feature applying the stolen images’ geolocation data. The Infringing Websites

1 and Infringing Reddit Communities also contained substantial unauthorized use of VSCO's
2 trademarks.

3 7. In addition to the Infringing Websites and Infringing Reddit Communities, VSCO
4 discovered a Patreon account named "VSCOclub." The "VSCOclub" Patreon was associated with
5 the Infringing Websites <vSCO.club> and <glizzy.cafe>, and allowed users to buy subscriptions to
6 repositories of these VSCO users' images, including their deleted content, and advertised that the
7 Patreon account owner had "10+ million [VSCO users'] accounts saved."

8 8. The creators and operators of the Infringing Websites, Infringing Reddit
9 Communities, and "VSCOclub" Patreon took extreme measures to obfuscate their true identities.
10 They operated only under aliases and anonymous email addresses and used proxy services to
11 register the Infringing Websites, which shielded their identities from WHOIS and other lookup
12 tools.

13 9. The <vSCO.club> and <glizzy.cafe> websites contained the anonymous contact
14 email address "vscoclub@protonmail.com."

15 10. VSCO began copyright and trademark enforcement efforts against the Infringing
16 Websites and Infringing Reddit Communities promptly after it discovered them.

17 11. I, and my colleagues at Sideman & Bancroft LLP, submitted trademark and
18 copyright infringement reports to the domain registrars and web hosts for the Infringing Websites
19 in May 2023, July 2023, July 2023, December 2023, January 2024, March 2024, April 2024, May
20 2024, July 2024, September 2024, October 2024, and November 2024, requesting that they take
21 down or disable access to the Infringing Websites. I, and my colleagues at Sideman & Bancroft
22 LLP, also submitted trademark and copyright infringement reports to Reddit in December 2023,
23 January 2024, February 2024, July 2024, August 2024, September 2024, and October 2024,
24 requesting that Reddit take down or disable access to the Infringing Reddit Communities. I have
25 personally reviewed these reports or printouts thereof.

26 12. On August 28, 2023, VSCO filed a complaint pursuant to the Uniform Domain
27 Name Dispute Resolution Policy ("UDRP") in the World Intellectual Property Organization
28 Arbitration and Mediation Center ("WIPO"), seeking the transfer of the <vSCO.page>.

1 <vSCO.club>, and <glizzy.cafe> domains. In this proceeding, on September 1, 2023, WIPO
 2 identified the registrant behind <vSCO.club> and <glizzy.cafe> with the alias, “Aidan Salamon”,
 3 with a fictitious address in Toronto, Canada, and the email address “vSCOclub@protonmail.com.”
 4 And on August 28, 2023, WIPO determined that the <vSCO.page>, <vSCO.club>, and <glizzy.cafe>
 5 domains had been registered in violation of the UDRP, and ordered that they all be transferred to
 6 VSCO.

7 13. On February 9, 2024, VSCO filed another UDRP complaint in WIPO, seeking
 8 transfer of the <vSCO.top> domain. In this proceeding, on February 14, 2024, WIPO identified the
 9 registrant behind <vSCO.top> with the proxy service “Nice IT Services Group Inc.”, with a
 10 fictitious address in Loubiere, Dominica, and an anonymized email address
 11 “domains+vSCO.top@dendrite.network.” And on April 3, 2024, WIPO determined that the
 12 <vSCO.top> domain had been registered in violation of the UDRP, and ordered that it be
 13 transferred to VSCO.

14 14. On June 28, 2024, VSCO initiated *In re DMCA Subpoenas to Cloudflare, Inc., et*
 15 *al.*, No. 24-mc-80159-SK (N.D. Cal.) pursuant to 17 U.S.C. § 512(h) of the Digital Millennium
 16 Copyright Act (“DMCA”), seeking the issuance of subpoenas (the “DMCA Subpoenas”) to
 17 ascertain the identities of the persons responsible for the infringement of its users’ copyrights,
 18 which VSCO’s Terms of Use (“TOU”) authorizes VSCO to do on its users’ behalf. In this
 19 proceeding, VSCO sought issuance of DMCA Subpoenas to three internet service providers
 20 involved in the creation or operation of the Infringing Websites: (1) Cloudflare, Inc.
 21 (“Cloudflare”), the registrar and/or web host for <vSCO.club>, <glizzy.cafe>, <vSCO.page>,
 22 <vSCO.top>, and <downloader.se>; (2) Patreon, Inc. (“Patreon”), the operator of the monetization
 23 platform for the “VSCOclub” Patreon; and (3) NameSilo, LLC (“NameSilo”), the registrar for
 24 <vSCO.top>. In the DMCA Subpoenas, VSCO sought production of documents from these internet
 25 services providers sufficient to identify the persons who were copying and distributing VSCO’s
 26 users’ copyright-protected images on these Infringing Websites, as well as violating the DMCA’s
 27 anti-circumvention provisions by accessing, scraping, and copying these images.

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1 15. On July 1, 2024, VSCO served the DMCA Subpoena on Cloudflare; on July 2,
 2 2024, VSCO served the DMCA Subpoenas on Patreon and NameSilo.

3 16. No party challenged the DMCA Subpoenas, and, on June 28, 2024, the
 4 miscellaneous action opened to issue the DMCA Subpoenas was terminated.

5 17. Cloudflare and Patreon produced documents in response to the DMCA Subpoenas
 6 issued to them. Cloudflare produced account registration records for <vSCO.club> and
 7 <glizzy.cafe> (which is a domain redirect from <vSCO.club>), and Patreon produced account
 8 registration records for the “VSCOclub” Patreon. These records display, consistent with one
 9 another, Mr. Khimji’s full name, his physical address, the email address
 10 “vscoclub@protonmail.com,” and also, as to Cloudflare, Mr. Khimji’s credit card information.

11 18. To date, NameSilo has not produced records in response to the DMCA Subpoena
 12 issued to it.

13 19. On or about October 4, 2024, my colleague Zachary J Alinder at Sideman &
 14 Bancroft LLP sent Mr. Khimji an enforcement letter using the contact information it learned
 15 through the DMCA Subpoenas. I personally reviewed this correspondence. In this letter, VSCO
 16 demanded that Mr. Khimji cease and desist his conduct that violated the Copyright Act, the
 17 DMCA, the Lanham Act, state unfair competition statutes, and the common law, and further
 18 demanded that he cooperate in VSCO’s investigation into the other Infringing Websites and
 19 Infringing Reddit Communities. VSCO specifically sought information on the specific means by
 20 which Mr. Khimji and the Doe Defendants circumvented VSCO’s security measures in violation
 21 of the DMCA to scrape and download its users’ copyright-protected images and related data.

22 20. Mr. Khimji retained counsel to respond and negotiate regarding VSCO’s October 4,
 23 2024, letter, and my colleague Mr. Alinder provided this counsel the documentation showing Mr.
 24 Khimji’s involvement in the Infringing Websites produced pursuant to the DMCA Subpoenas. I
 25 personally reviewed this correspondence. However, after months of attempting to negotiate a
 26 resolution of the dispute in good faith with Mr. Khimji’s counsel, Mr. Khimji ultimately refused to
 27 comply with this enforcement letter or provide any information, and terminated this counsel’s
 28 representation.

21. On December 23, 2024, after carefully considering all known facts and applicable laws, VSCO initiated the instant litigation to protect its rights and its users without delay. VSCO's additional claims against the Defendants, including under the Copyright Act and/or DMCA, would be aided by additional discovery from Defendants and non-parties involved in the operation of the Infringing Websites and Infringing Reddit Communities, and VSCO reserves its right to amend the Complaint to assert those claims (and any other additional claims) at the appropriate time and with a more complete factual record.

22. On December 30, 2024, VSCO served the Complaint on Mr. Khimji.

23. On March 12, 2025, Mr. Khimji's new counsel, Simon Lin, informed Mr. Alinder and me that he had been retained to represent Mr. Khimji in this action.

24. On March 21, 2025, Mr. Lin served Mr. Alinder and me a copy of the instant Motion for Sanctions, as well as a Motion to Quash the DMCA Subpoenas.

25. I, and my colleague Mr. Alinder, have informed Mr. Lin that the instant Motion for Sanctions is meritless and wasteful of the Court's resources and that not only would it fail but also backfire and subject both Mr. Khimji and Mr. Lin to their own sanctions, and we have urged Mr. Khimji not to file it.

26. A true and correct copy of the Declaration of Akaash Gupta In Support Of Plaintiff Visual Supply Company's Opposition to Defendant Adam Khimji's Motion To Dismiss And/Or Stay, filed in this action on April 14, 2025 (Dkt. 16-1), is attached hereto as **Exhibit A**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and was executed on May 27, 2025, at San Francisco, California.


By: 
Andrew M. Levad

EXHIBIT A

LAW OFFICES
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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**
13

14 VISUAL SUPPLY COMPANY, a
Delaware corporation,

15 Plaintiff,
16

17 v.

18 ADAM KHIMJI, an individual, and DOES
1-20, inclusive,

19 Defendants.
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Case No. 3:24-cv-09361-WHO

**DECLARATION OF AKAASH GUPTA IN
SUPPORT OF PLAINTIFF VISUAL SUPPLY
COMPANY'S OPPOSITION TO
DEFENDANT ADAM KHIMJI'S MOTION
TO DISMISS AND/OR STAY**

Date: June 18, 2025
Time: 2:00 p.m.
Place: Courtroom 2, 17th Floor
Judge: Hon. William H. Orrick

1 I, Akaash Gupta, declare as follows:

2 1. I am over 18 years of age and make this declaration based upon personal
3 knowledge of facts set forth below except as to those matters stated on information and belief. As
4 to those matters, I am informed and believe them to be true. If called upon to testify, I could and
5 would testify under oath to the matters set forth herein.

6 2. I am Deputy General Counsel at Visual Supply Company (“VSCO”), the Plaintiff
7 in this matter. This declaration is filed in support of VSCO’s Opposition to Defendant Adam
8 Khimji’s Motion to Dismiss and/or Stay, filed contemporaneously with this declaration.

9 3. Currently, VSCO has over 300 million registered users worldwide, millions of
10 whom are located in the U.S., and many of whom are in California.

11 4. Since its founding in 2011, VSCO’s physical office building has always been
12 located in the San Francisco Bay Area, and the company has a current office lease in San
13 Francisco, California. Prior to the current San Francisco office lease, the company had moved to
14 being fully remote in 2022 due to the pandemic, although a substantial number of its employees
15 still reside in California, and the majority of its corporate executives continue to work out of the
16 San Francisco Bay Area.

17 5. All VSCO users who register an account must assent to VSCO’s Terms of Use by
18 clicking a button that states “By signing up you agree to VSCO’s Terms of Use & Privacy Policy”
19 during the account-making process.

20 6. VSCO’s computer servers are located in the U.S.

21 7. For data privacy purposes, and compliance with the relevant data privacy statutes,
22 VSCO does not retain the email addresses of deleted VSCO accounts.

23 8. On or about April 7, 2025, I directed a search of VSCO’s records for accounts
24 associated with the name “Adam Khimji” and/or the email addresses “Adam.Khimji@ISED-
25 ISDE.GC.CA”, “akhimji3@uwo.ca”, and “vscoclub@protonmail.com”, and did not turn up any
26 results related to Defendant Adam Khimji. However, due to VSCO’s deletion policy described in
27 the preceding paragraph, if Mr. Khimji had registered a VSCO account with those email addresses
28 but deleted the account before my team’s search, or if he registered an account under any other

1 email address or a fictitious name, then VSCO would not have a record of such accounts as
2 associated with Mr. Khimji.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct, and was executed on April 14, 2025, at San Francisco, California.
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7 By: Akaash Gupta
8 Akaash Gupta
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